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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,923	04/26/2001	Erin H. Sibley	PD-201008A	2070
20991 7590 07/13/2007 THE DIRECTV GROUP INC PATENT DOCKET ADMINISTRATION RE/R11/A109 P O BOX 956 EL SEGUNDO, CA 90245-0956			EXAMINER USTARIS, JOSEPH G	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 07/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/844,923	Applicant(s) SIBLEY, ERIN H.	
	Examiner Joseph G. Ustaris	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 15, 2005 has been entered.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 1/30/2006 and 9/22/2006 was filed after the mailing date of the Final Office Action on July 22, 2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-7, and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al. (US006160989A).

Regarding claim 1, Hendricks et al. (Hendricks) discloses a system of broadcasting digitally channels over an allocated frequency spectrum (See Figs. 1 and 3; col. 10 lines 1-51) comprising:

- a satellite (See Figs. 1 and 3, satellite);
- a network operations center (operations center 202) uplinking electronic content (program signals) to said satellite (See Figs. 1 and 3; col. 5 lines 6-16 and col. 10 lines 1-51);
- a terrestrial over-the-air digital broadcast center receiving said electronic content from said satellite (See Figs. 1 and 3, headend 208; col. 7 lines 11-34) and generating a digital channel signal (other digital) over at least a first portion of said allocated frequency spectrum (See Fig. 3, 216; col. 10 lines 28-51) and generating digital over-the-air electronic content (digital compressed signals) over a second portion of said allocated frequency spectrum (See Fig. 3, 216; col. 10 lines 28-51); and
- a user appliance receiving said electronic content (See Fig. 1, 220).

Regarding claim 2, as disclosed in claim 1 rejection, Hendricks discloses a satellite (stratospheric platform) communicates (coupled) with the cable headend (over the air broadcast center).

Regarding claim 3, Hendricks discloses that one of the transmission media can be a cellular network (See column 7 lines 29-34), which inherently includes a "cell tower".

Regarding claims 5 and 6, Hendricks discloses both digital audio and video (See column 5 lines 6-16).

Regarding claim 7, the set top terminals or "user appliance" is "fixed" (See Hendricks Fig. 1).

Claim 9 contains the limitations of claim 1 (wherein the system performs the method) and is analyzed as previously discussed with respect to that claim. Furthermore, since the system utilizes digital transmission methods, a standard 6 MHz channel within the frequency spectrum will inherently have "excess bandwidth" for extra "digital television broadcast signals" that carry the "electronic content packages".

Claim 10 contains the limitations of claims 2 and 9 and is analyzed as previously discussed with respect to those claims.

Claim 11 contains the limitations of claims 3 and 9 and is analyzed as previously discussed with respect to those claims.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (US006160989A).

Claim 4 contains the limitations of claim 1 and is analyzed as previously discussed with respect to that claim. Furthermore, Hendricks discloses different types of transmission media (e.g. cellular networks) to the home and suggests that similar technology can be used interchangeably (column 7, lines 29-34). However, Hendricks does not explicitly disclose a TV broadcast tower.

Official Notice is taken that it is well known in the art that TV broadcast towers are used as a transmission scheme. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Hendricks to include a TV broadcast tower in order to provide more versatility, options of transmission, and robustness of transmission in case of malfunction by one scheme.

Claim 12 contains the limitations of claims 4 and 9 and is analyzed as previously discussed with respect to those claims.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (US006160989A) in view of Owa et al. (US006711379B1).

Hendricks does not disclose that the "user appliance is mobile".

Owa et al. (Owa) discloses a digital broadcasting system and terminal. Owa discloses mobile receiving terminals that can receive broadcasts from various sources (See Figs. 1, 23, and 24; col. 7 lines 21-35). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Hendricks to include mobile receiving terminals or "mobile user appliance",

as taught by Owa, in order to expand the capabilities of the system thereby making the system more convenient for the user by enabling the user to roam freely with the mobile terminal (See col. 1 lines 26-45).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5 PM; Alternate Fridays off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JGU

June 26, 2007

  
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